

EXHIBIT A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

JAMES HULCE, et al.,

Plaintiff,

v.

ZIPONGO, INC. d/b/a FOODSMART,

Defendant.

Case No. 2:23-cv-00159-LA

DECLARATION OF JARED SCHAREN

I, Jared Scharen, declare under the penalty of perjury as follows.

1. My name is Jared Scharen. I am over the age of 18 and am competent to provide this declaration.

2. I am the Senior Vice President of Operations and Marketing at Zipongo, Inc. d/b/a Foodsmart (“Foodsmart”). I am familiar with Foodsmart’s business model and practices.

3. The information contained herein is based on my personal knowledge along with my review of the business records, policies, and/or electronic databases and reports generated and maintained by Foodsmart in the ordinary course of its regularly conducted business and made at or near the time by, or from information transmitted by, someone with knowledge. I routinely view, search, and interpret those records while performing my job duties. If called and sworn as a witness, I could and would competently testify to the matters discussed herein.

4. Foodsmart is a mission driven company that provides nutritional telehealth consultations to help individuals improve their overall health and to combat food insecurity, a serious problem for over 17,000,000 Americans who are unable to acquire enough food.

5. To achieve this mission, Foodsmart works with healthcare plans and providers across the country to facilitate these telehealth nutritional visits.

6. During these visits, Foodsmart integrates dietary assessments and nutrition counseling from dietitians with cost-effective meal planning for the whole family.

7. Foodsmart devotes substantial resources to help eligible members battle food insecurity by helping them enroll in government assistance programs, such as SNAP, for low-income individuals.

8. Research studies on Foodsmart's programs show that its services not only benefit members by improving their nutritional choices (and thus their overall health) but also decrease overall healthcare costs for healthcare providers and the state as a result of these preventative services.

9. Attached to this declaration as Exhibit 1 is an Optum Claims Study that concludes, among other things, that "Foodsmart saved the health plan, on average, \$40 PMPM [per member per month] after adjusting for high value claims and other wellness programs, compared to a matched control group." Ex. 1 at 2.

10. Attached to this declaration as Exhibit 2 is a Foodsmart CCHP Study that concludes, among other things, that "the average 12 month PMPM claims savings generated by Foodsmart across major chronic conditions compared to controls: savings ranged from \$62 to \$871 PMPM in some members." Ex. 2 at 1.

11. A Wisconsin based healthcare provider, Chorus Community Healthcare Plans ("CCHP") contracts with Foodsmart to provide nutritional services to its plan members.

12. CCHP specifically chose to contract with Foodsmart to better serve its large number of plan members who receive services through Badgercare Plus.

13. Badgercare Plus is a state funded healthcare program. Members pay no cost for the services they receive through CCHP by means of a monthly premium, copay, or otherwise.

14. To qualify for Badgercare Plus, members must either be low income or have a qualifying disability. That demographic is the most at risk for food insecurity and the demographic that stands to benefit most from Foodsmart's free telehealth nutritional services.

15. To facilitate the provision of these completely free services, Foodsmart sends informational text messages and phone calls to CCHP members.

16. The text messages and scripts of the phone calls are approved by and sent on behalf of CCHP. The phone call scripts and text messages are also approved the Wisconsin's Department of Health Services.

17. In addition to informing members about these benefits that are fully covered through their plan, Foodsmart also conducts gift card giveaways and raffles to help these low-income members buy healthy groceries.

18. The text messages, which are sent directly by Foodsmart, expressly provide that Foodsmart's services are free to the member.

19. For example, a text message sent to in October 2022 (shown below) provides that CCHP members can receive free \$25 gift cards for completing a "no cost" visit and taking the Foodsmart Nutriquiz, a dietary tool designed to health members develop healthy eating habits.

October is the month of sweet treats & pumpkin spice everything.
Make meeting with a personal dietitian part of your Fall routine &
balance your blood sugar 🍂

Bundle Up! Get a \$25 gift card when you complete a no cost visit in
Oct., and \$25 for taking the Foodsmart Nutriquiz!
<https://fdsmt.co/3NdUw1V> 🍂
Reply stop to unsubscribe.

(414) 246-0371 • Oct 27, 2022

20. Foodsmart also calls CCHP members through its call vendor, Quality Contact Solutions.

21. Foodsmart requires QCS to honor all do-not-call requests.

22. Foodsmart honors all do-not-call requests it receives from QCS.

23. QCS never notified Foodsmart that Plaintiff wasn't interested in Foodsmart's services.

24. Plaintiff received one text message directly from Foodsmart in October 2022, and after he asked not to receive further text messages, he was promptly removed from the text-message list and wasn't contacted again.

25. Plaintiff only received these communications because the eligibility list (showing he was no longer a CCHP member) hadn't yet been updated in the short time window following the cancellation of his insurance.

26. Foodsmart never received a copy of the November 2022 grievance that James Hulce, who I understand is the Plaintiff in this case, sent to CCHP.

27. Foodsmart has an internal, written do-not-call policy that is available on demand.

28. Foodsmart trains its employees on the existence and use of the do-not-call policy.

29. Foodsmart honors all do-not-call requests.

30. Foodsmart maintains a record of all requests not to be contacted and honors those requests for at least 5 years from the time the request is made.

31. Foodsmart identifies, on each call, the name of the individual caller making the call, that the call is being made on behalf of Foodsmart, and if requested it provides the telephone number and address at which the person or entity may be contacted. Caller ID also accurately displays the call back number to call Foodsmart back, so if someone receives Foodsmart's call on

a smartphone, Foodsmart's telephone number will always be identified to them, even before they pick up the call.

32. I declare under penalty of perjury that the foregoing is true and correct under the laws of the United States of America.

Executed this 7th day of November 2023 in Golden, CO.

A handwritten signature in cursive script that reads "Jared Scharen".

Jared Scharen

Senior Vice President of Marketing &
Operations

EXHIBIT 1

Foodsmart solution helps a major health plan save \$40 PMPM: A matched pair controlled claims analysis

Foodsmart, the world's largest telenutrition provider combined with a digital nutrition platform, is a solution to make eating well simple. Foodsmart is able to create sustained behavior change for its members by making the meal planning process easy, quick, and affordable, and providing custom guidance to individuals based on their health goals and chronic conditions. Published research has demonstrated that Foodsmart members with chronic conditions (e.g. obesity, hyperlipidemia, diabetes, and hypertension) are able to improve their health over time¹⁻⁵.

Because of the tremendous costs that chronic conditions pose to the healthcare system⁶⁻⁷, it is important to better understand and evaluate the cost savings attributed to Foodsmart from helping members improve their nutrition and health outcomes. In this case study, we present the methodology and results of a matched pair controlled claims analysis for a national health plan.

This analysis leveraged data from a large, national health plan and Foodsmart to examine potential healthcare cost savings among Foodsmart members within the health plan's population on the software subcomponent of Foodsmart's offerings. Members began enrolling in Foodsmart in January 2019. Optum Insights conducted a matched pair controlled analysis to evaluate pre- and post-intervention healthcare costs on a year-over-year basis, comparing Foodsmart members to a similar control group of health plan members who did not use Foodsmart, matched on key demographic variables including age, gender, geographical region, and BMI.

After matching 7,656 Foodsmart members to 7,656 controls, Optum Insights calculated the per member per month (PMPM) savings comparing the Foodsmart group to the control group. The overall cost savings (medical and pharmaceutical) of Foodsmart compared to the control group was \$48 PMPM, and was attenuated to \$47 PMPM after capping high value claims over \$250,000, and further attenuated to \$40 PMPM after controlling for other wellness programs members were engaged in.

Table 1. Overall healthcare cost savings (PMPM) comparing Foodsmart to control group and sensitivity analyses.

	Savings (PMPM) comparing Foodsmart to control
All healthcare costs savings (Medical + Rx)	\$48
Capped high value claims (250k+)	\$47
Controlled for participation in other wellness programs*	\$40

To better understand the healthcare cost savings among members with a chronic condition impacted by nutrition, Optum Insights stratified the primary results by members' conditions. The highest savings were found for members with cancer, digestive health, and cardiovascular disease. These results are in line with Foodsmart's previously published research that found improvements in biometrics among members with hyperlipidemia and hypertension³⁻⁵.

Table 2. Incremental savings (PMPM) generated by Foodsmart by chronic condition

	Savings (PMPM) comparing Foodsmart to control
Cancers	\$2,104
Digestive Health	\$377
Cardiovascular Disease	\$172

Specifically looking at pharmaceutical costs, savings were found to be highest for drugs related to rheumatic fever, diabetes, and migraines.

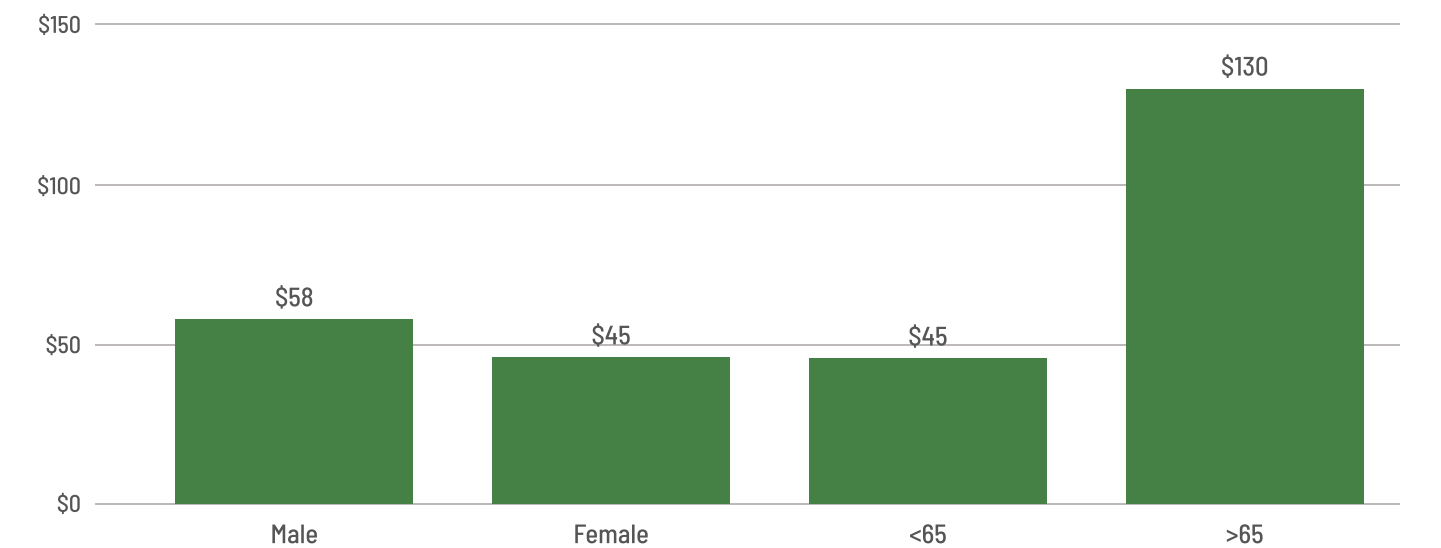
Table 3. Incremental savings (PMPM) generated by Foodsmart for pharmaceutical spending

	Savings (PMPM) comparing Foodsmart to control
Rheumatic fever	\$1,290
Diabetes	\$353
Migraines	\$135

*Heart Health, Weight Management, Tobacco, General Health Coaching, Stress Management, Personal Coaching, Online Coaching, Nutrition, Diabetes, Healthy Weight, Healthy Back, Exercise, and Real Appeal

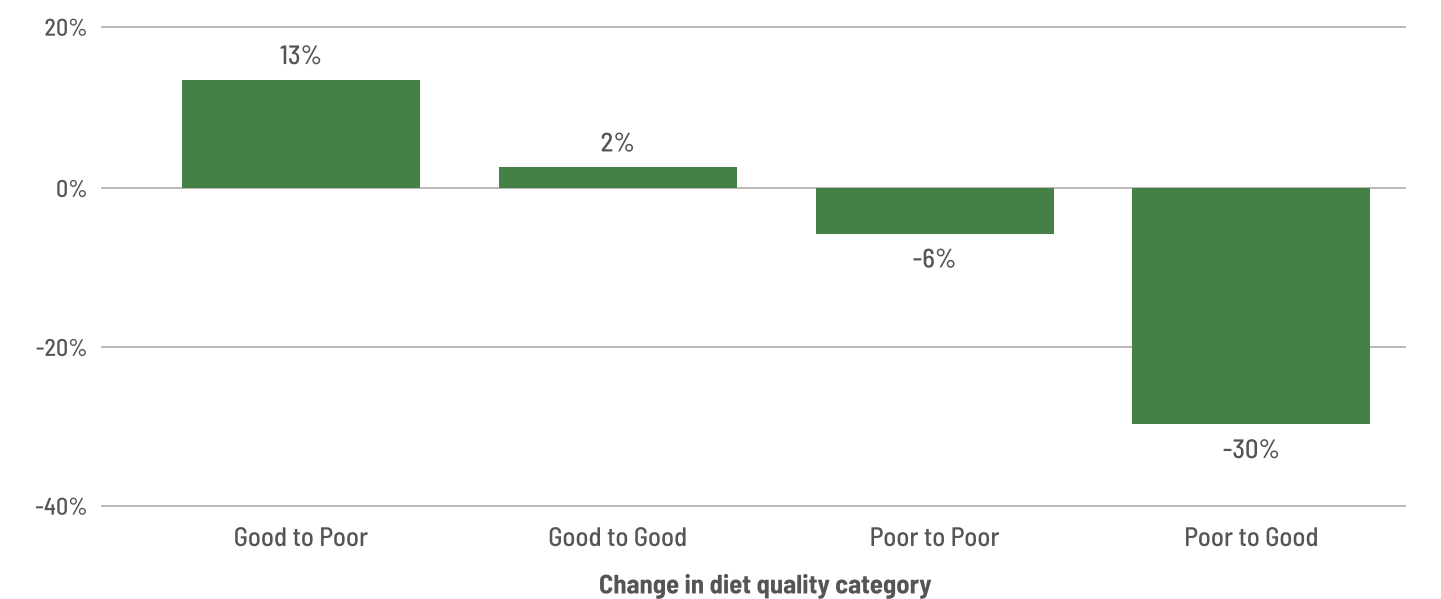
When stratified by sex and age, PMPM savings were found to be higher among males (\$58 PMPM) compared to females (\$45 PMPM), and higher among those 65 or older (\$130 PMPM) compared to those less than 65 years old (\$45 PMPM).

Figure 1. Incremental savings (PMPM) generated by Foodsmart by Sex and Age.



To evaluate the association between changes in nutrition and healthcare cost savings, Optum Insights conducted an analysis among Foodsmart members only, who had 2 markers of diet quality (Nutriscore) over time. They found that those who improved their diet quality (from poor to good) decreased medical costs after using Foodsmart by 30%, while those whose diet quality decreased (from good to poor) had higher medical costs, indicating that change in eating behavior may be associated with better clinical outcomes, thereby lowering medical claims costs.

Figure 2. Percent change in medical costs from pre- to post-intervention among Foodsmart members by change in diet quality.



Good defined as Nutriscore greater than or equal to 35, and Poor defined as Nutriscore less than 35

Summary

Foodsmart saved the health plan, on average, \$40 PMPM after adjusting for high value claims and other wellness programs, compared to a matched control group. Savings were higher among groups with chronic conditions, members 65 years or older, males, and among Foodsmart members who improved their nutrition.

References

¹ Hu EA, Nguyen V, Langheier J, Shurney D. Weight Reduction Through a Digital Nutrition and Food Purchasing Platform Among Users With Obesity: Longitudinal Study. J Med Internet Res. 2020 Sep 2;22(9):e19634

² Hu EA, Pasupuleti M, Nguyen V, Langheier J, Shurney D. Sustaining weight loss among adults with obesity using a digital meal planning and food purchasing platform for 12, 24, and 36 months: a longitudinal study. Nutr J. 2021 Jan 21;20(1):8.

³ Hu EA, Scharen J, Nguyen V, Langheier J. Evaluating the impact of a digital nutrition platform on cholesterol levels in users with dyslipidemia: A longitudinal study. JMIR Cardio 2021;5(1):e28392.

⁴ Shea B, Bakre S, Carano K, Scharen J, Langheier J, Hu EA. Changes in glycemic control among individuals with diabetes who used a personalized digital nutrition platform: Longitudinal study. JMIR Diabetes. 2021;6(4):e32298.

⁵ Bakre S, Shea B, Langheier J, Hu EA. Blood pressure control in individuals with hypertension who used a digital, personalized nutrition platform: Longitudinal study. JMIR Form Res. 2022;6(3):e35503.

⁶ American Diabetes Association. Economic Costs of Diabetes in the U.S. in 2017. Diabetes Care. 2018;41(5):917-928.

⁷ Virani SS, Alonso A, Benjamin EJ, et al. Heart Disease and Stroke Statistics-2020 Update: A Report From the American Heart Association. Circulation. 2020;141(9):e139-e596.

EXHIBIT 2

Chorus Community Health Plan shows \$33 PMPM average claims savings with Foodsmart food is medicine program

Given the significant healthcare costs associated with chronic conditions and food insecurity, health plans are investing in proven solutions to sustainably address these needs. In a recent matched pair controlled claims analysis with Chorus Community Health Plan, Foodsmart demonstrated significant cost savings amongst both Medicaid and Exchange members by helping to improve their food access and affordability, overall nutrition, and related health outcomes.

Partnership overview:

CCHP and Foodsmart began partnering in July 2021 to create a scalable solution addressing food insecurity and chronic conditions related to nutrition. Foodsmart, the largest telenutrition provider and digital nutrition platform in the U.S., drives lasting behavior change through personalized meal plans, an integrated healthy food marketplace, and access to the largest network of dietitians in the country. CCHP is part of Children's Wisconsin, one of the most reputable children's hospital systems in the country. Its health plan serves both children and adults in the Greater Milwaukee area.

To create a solution that would see significant results, CCHP and Foodsmart created a robust outreach plan to maximize adoption given how many of their members were struggling with food insecurity and chronic conditions. This plan included:

- Nutrition education with culturally competent registered dietitians in multiple languages and SNAP enrollment support
- Community events
- Provider referrals in partnership with Children's Wisconsin Hospital System
- Robust member outreach via calling, email, SMS, and other appropriate channels

This resulted in the most adopted program CCHP has had to date, with over 10% of households meeting with a dietitian, and high member satisfaction (Net Promoter Score of ~60).

Improvements in chronic conditions yield significant claims savings:

Further, we evaluated these saving by three nutrition-sensitive conditions: diabetes, hypertension, and hyperlipidemia (high cholesterol). Figure 1 depicts the average 12-month PMPM claims savings generated by Foodsmart across major chronic conditions compared to controls: savings ranged from \$62 to \$871 PMPM in some members.. Both Medicaid and Exchange populations saw overall claims savings** of \$32 PMPM and \$45 PMPM respectively as indicated in Table 1. **This claims study aligns closely with other claims analyses evaluating the magnitude of the Foodsmart program's impact on population health and cost of care. Another recent matched pair claims study on the Foodsmart program in a Medicaid expansion state found, similarly, that Foodsmart generated \$30PMPM net claims savings among all member segments..**

Figure 1: Cost savings by condition

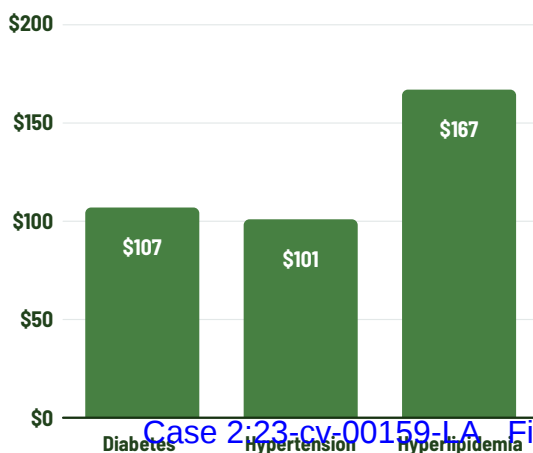


Table 1: Overall claims and net cost savings (PMPM) by line of business

Claims Category	Medicaid Members*	Exchange Members
Total Gross Savings	\$43 PMPM	\$75 PMPM
Total Net Savings**	\$32 PMPM	\$45 PMPM

*\$24PMPM Gross Medical Claims savings (excl. Rx); \$12 PMPM Net Medical Savings (excl. Rx)